



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

IN RE: HILLSBOROUGH COUNTY/
HILLSBOROUGH COUNTY SHERIFF'S
DIVISION AND DIVISION OF CORREC-
TIONS CONTRACT/LOCAL 2715 AMERICAN
FEDERATION OF STATE, COUNTY AND
MUNICIPAL EMPLOYEES, AFL/CIO

CASE NO. M-0563

DECISION NO. 83-06

APPEARANCES

Representing American Federation of
State, County and Municipal Employees,
AFL/CIO

James C. Anderson, Executive Director

Representing Steven Papavlo, Sr.

Steven Papavlo, Sr., pro se

BACKGROUND

This is a case arising from the negotiations between the above-captioned union, hereinafter AFSCME, and the Hillsborough County Commissioners which resulted in two contracts, one between the county and the employees at the county nursing home and one between the county and the employees in a certified bargaining unit of employees of the Sheriff's Division and Division of Corrections. AFSCME Local 2715 contains union members who are employees at the nursing home, Sheriff's Division and Divisions of Corrections and Goffstown Public Works Department.

After the negotiation of the contracts and prior to the signing of the contracts for various other reasons, the Public Employee Labor Relations Board was contacted by Steven Papavlo, Sr., a member of the bargaining unit covering the Sheriff's Department and Division of Corrections and also a member of the Union Local 2715. He inquired of the Board concerning the propriety of certain events surrounding the ratification of the contract in question. By letter dated December 10, 1982, he asserted that union members from other units, specifically the nursing home and the Public Works Department of the town of Goffstown, in addition to union members from the Sheriff's Division and Division of Corrections had been allowed to be present at a meeting of Local 2715 and vote on the contract for the Hillsborough County Sheriff's Division and Division of Corrections. A hearing was held at the Public Employee Labor Relations Board office on March 1, 1983, to consider

the complaint concerning the ratification process and the issues presented thereby. At the hearing, Mr. Papavlo again stated his concern that employees from units other than that covered by the contract had been allowed to vote on the contract. James Anderson, Executive Director of the union, agreed with the facts as alleged and stated that the AFSCME International Constitution, specifically number 7 of the "Bill of Rights for Union Members" required that all members of the Local be allowed to vote on contracts whether or not the contracts covered those particular employees. The provision of the Constitution cited by Mr. Anderson to support this contention reads as follows:

7. Members shall have the right to full participation, through discussion and vote, in the decision-making processes of the union, and to pertinent information needed for the exercise of this right. This right shall specifically include decisions concerning the acceptance or rejection of collective bargaining contracts, memoranda of understanding, or any other agreement affecting their wages, hours or other terms and conditions of employment. All members shall have an equal right to vote and each vote case shall be of equal weight.

FINDINGS OF FACT AND RULINGS OF LAW

The Public Employee Labor Relations Board is charged by statute with supervision of the entire collective bargaining process, part of which is the result of the ratification process. Contracts ratified must be filed with the Board and they become public documents. The Board, therefore, has the power and asserts its jurisdiction to inquire into the ratification process in the event that alleged problems with that process are pointed out to it. In the instant case, the Board is specifically not exercising jurisdiction to interfere with the internal workings of the union in several respects. First, the interpretation of the AFSCME Constitution by the union, by its Executive Director, counsel or members is not a matter of concern to the Board. While the Board may differ with the interpretation of the quoted section of the Constitution, it is for the union and not the Board to interpret that document and the Constitution itself sets forth appeals procedures for members who feel an improper interpretation has been made. Additionally, the Board asserts no jurisdiction to tell the union how many units of employees or what geographical composition must be included in its locals. That is solely a matter for union governance and decision making.

However, the Board is charged with the responsibility to supervise the collective bargaining process. One of the principal obligations of the Board is contained in RSA 273-A:8, 10 and 11, the determination of appropriate bargaining units, the election of representatives in those bargaining units and rights accompanying certification of representatives for those bargaining units. The entire statutory scheme is based upon the creation of units between similarly situated employees with certain similar characteristics and the selection by those employees in those units of representatives of their choosing so that they might democratically be represented and make decisions concerning their own employment conditions. In the case at hand, it was uncontroverted that there are employees of three different units in the local. Indeed, the Executive Director of the union admitted that under his interpretation of his obligations, he is required to allow union members in all three units (some of whom, the Goffstown Public Works employees, do not even have the same employer) to vote on all contracts presented to the units in question. Further, he stated that should a local be created which contained all of the State of New Hampshire, he would be required to

allow, for example, Nashua employees to vote on Berlin city contracts. It is conceivable, therefore, that a majority of the members from one unit could be in favor of a contract affecting them, but the majority of the local could vote against it or, reversing the possibility, the majority of workers could be against ratifying a contract affecting them and the majority could accept it.

The Board does believe and holds that ratification of contract under RSA 273-A must be by vote of the unit members and that the ratification or rejection of contracts cannot be affected by the votes of union members who are not members of the unit in question. Therefore, applied to the situation presented in this case, ratification of the contract is dependent upon the vote of the majority of the union members from the unit in question and not the vote of nonunit members. Evidence must be presented of such a vote prior to the filing of the contract or effectiveness of it as binding upon that unit for which it was negotiated.

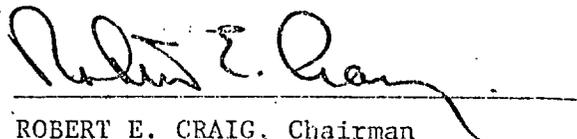
If the Board were to allow the ratification procedure in any other fashion, the employee organization would be opening itself to charges by employees of discrimination against certain employees under the provisions of RSA 273-A:5 II.

Nothing in this decision should be read to prohibit bargaining unit employees from voting to participate in multi-unit bargaining resulting in single contracts covering more than one unit. However, when separate units engage in negotiations which result in separate contracts, those contracts can only be ratified by the members of the units covered by the contract.

ORDER

The Board issues the following order:

For the ratification of the contract to be effective in the Hillsborough County Sheriff's Division and Division of Corrections Unit, evidence must be received that ratification was by a majority of the members from that bargaining unit and not from the union local as a whole.



ROBERT E. CRAIG, Chairman

Signed this 29th day of March 1983.

Members Mayhew and Verney also voting. All concurred. Also present Executive Director, Evelyn LeBrun, and Board Counsel, Bradford E. Cook.